

R. Scott Thompson
Michael J. Hahn
LOWENSTEIN SANDLER PC
Attorneys at Law
65 Livingston Avenue
Roseland, New Jersey 07068
973.597.2500
Attorneys for Defendant
Bankrate, Inc.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

BANXCORP,

Plaintiff,

vs.

BANKRATE, INC.,

Defendant.

Civil Action No. 07-3398

Hon. Susan G. Wigenton, U.S.D.J.

**ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS PURSUANT TO
FED. R. CIV. P. 12(B)(6)**

The above matter having been opened to the Court by Lowenstein Sandler PC, attorneys for Defendant Bankrate, Inc., upon application for an Order granting Defendant's Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) against Plaintiff BanxCorp, and the Court having considered the papers submitted and the arguments of counsel, if any, and for good cause shown,

It is on this _____ day of _____, 2011, hereby

ORDERED that the Defendant's Motion to Dismiss the Fourth Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6) is hereby **GRANTED** as set forth herein; and it is further

ORDERED that Plaintiff BanxCorp's First Claim for Relief pled under Section 1 of the Sherman Act is hereby dismissed with prejudice, except as it pertains to alleged agreements with LendingTree LLC; and it is further

ORDERED that Plaintiff BanxCorp's Second and Third Claims for Relief pled under Section 2 of the Sherman Act (monopolization and attempted monopolization) are hereby dismissed with prejudice, except as it pertains to alleged predatory pricing based on Bankrate's switch to cost-per-click pricing; and it is further

ORDERED that Plaintiff BanxCorp's Fifth Claim for Relief pled under the New Jersey Antitrust Act is hereby dismissed with prejudice, except as it pertains to (i) alleged agreements with LendingTree LLC; and (ii) alleged predatory pricing based on Bankrate's switch to cost-per-click pricing.

Hon. Susan G. Wigenton, U.S.D.J.